



## **Virginia Institutions of Higher Education Guidelines to Move OER forward**

Virginia Code § 23.1-1308 states: *The governing board of each public institution of higher education shall implement guidelines for the adoption and use of low-cost and no-cost open educational resources in courses offered at such institution. Such guidelines may include provisions for low-cost commercially published materials.*

This guidance document was developed by the SCHEV Open Virginia Advisory Committee and adopted by Council as a model of practice for college and university governance officials and administrative staff with responsibility for developing institutional policies. This resource is designed to provide recommended language for fundamental elements of institutional Open Educational Resource (OER) policies. Supplemental information is provided in an appendix, to support institutional deliberations about potential components of such policies.

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### **I. Prologue**

The implementation of open educational resources has been identified in *The Virginia Plan for Higher Education* as a formal activity aligned with Goal 1: Providing Affordable Access for All. In fact, widespread adoption of open educational resources would promote numerous goals and initiatives in the Plan. Student success can be improved through the availability of OER, as persistence and completion are encouraged when course materials are freely available. A growing body of peer-reviewed research suggests that switching from traditional textbooks to open educational resources generates benefits for students in terms of cost savings, grades, and course completion rates. Adoption of OER is an innovative practice that can lead to

efficiencies through cross-institutional and/or cross-disciplinary collaboration. Positive feedback from faculty who have adopted and created open course materials demonstrates that OER initiatives can also support faculty excellence and scholarship. Effective implementation of open educational resources will depend upon the engagement of well-informed institutional staff and faculty and will be enhanced by consideration of appropriate policies.

## **II. Purpose**

The purpose of these guidelines is to help institutions fulfill their new obligations under § 23.1-1308 within a framework that promotes quality and sustainability. The intent is to create a unitary vision for Virginia's public higher education system while recognizing the individuality of the institutions and differences in their missions, strengths, and priorities. The guidelines promote the creation and utilization of open educational resources and efforts to scale to OER full programs. The italicized sample guideline language within each section can be adopted or adapted by individual institutions and the Appendix supplies supplemental information and references to aid in planning for implementation. To realize the full potential of OER, college and university governance officials must publicly demonstrate their support by making OER policy that is aligned with the college or university vision and mission and which encourages and rewards sharing and cross institutional collaboration. Implementing an institution-level OER policy signifies support from leadership and creates a supportive environment for faculty, staff, and students to explore the potential of OER and the benefits for students. SCHEV recommends that each institution appoint an ongoing stakeholder committee to review and update provisions as appropriate given the rapidly changing environment surrounding educational resources.

**III. Proposed Guideline Framework.** The framework recommended here covers elements A. through H. and provides sample language for each element. The language can be customized to align with an individual institution's OER efforts.

### **A. Purpose**

**Sample language:** *This policy provides guidance to faculty in achieving the following outcomes through the utilization of Open Educational Resources (OER) at [institution name]: improve student success through increased access and affordability, and improve teaching efficiency and effectiveness through the ability to focus, analyze, augment, and evolve course materials directly aligned to course learning outcomes. Faculty will be supported in their participation with OER to achieve both of the stated outcomes.*

### **Additional considerations:**

- Institutions with a research, publication, or service orientation may wish to add language regarding desired outcomes for research, publication, and/or service.

## B. Definition of Open Educational Resources (OER)

**Sample language:** *Open Educational Resources (OER) are publicly available teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use and re-purposing by others. Open educational resources include full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.<sup>1</sup>*

*“OER Course” is a course using freely available OER.*

## C. OER Policy Statement

**Sample language:** *[The institution] shall make use of OER materials in accordance with the provisions of the institution's Intellectual Property policy; the Creative Commons licensing standards; the Digital Millennium Copyright Act of 1998; applicable state and federal copyright laws; accepted best practices of the OER community, including a succinct and well-accepted definition of OER; and college policies and academic standards.*

*Faculty who incorporate OER materials into their courses, or create, adapt, or share OER shall be in compliance with policies governing the use of course materials under [institutional policy title].*

*[The institution] will provide training, support, and encourage recognition of OER use, adaptation, and creation as a meaningful scholarly and professional endeavor.*

*Courses using only OER will be labeled as such in the institution's course registration system.*

### **Additional considerations:**

- Institutions without OER course registration labels will need to develop this.
- An OER course aligns content with course learning objectives and has formal verification of licensing.

## D. Licensing OER/Legal Context

**Sample language:** *The institution's intellectual property (IP) and copyright policy titled \_\_\_\_\_ governs rights and requirements for works created during the course of employment, including ownership, open licensing, and public release.*

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<sup>1</sup> While other helpful definitions may exist, the Open VA Advisory Committee recommends the one articulated by the Hewlett Foundation as the most comprehensive and broadly utilized: <http://www.hewlett.org/programs/education/open-educational-resources>

*Faculty or staff who create original content that is incorporated into an OER course or create OER of other types or formats shall place a Creative Commons Attribution License (CC-BY) on such content before or at the time it is introduced into the course. Faculty adapting OER must use the least restrictive license possible. It is the faculty member's responsibility to ensure that such content is eligible for and meets the standards for a CC-BY license. Best practices for incorporation of third party works (permission, fair use, etc.) must be followed as is required by U.S. Copyright law.*

**Additional considerations:**

- For perspectives regarding the inclusion of third party works within OER, see Appendix A.
- OER may be addressed in an existing IP policy or addressed separately in an OER policy. In either case, the use and creation of OER does not supplant an institution's IP policy. The recommended practice is to set as default the most open and least restrictive Creative Commons Attribution License (CC BY), whenever possible. Institutions with a research, outreach, or service mission may wish to add language to this section.

**E. OER Procedures and Responsibilities**

**Sample language:**           (position title)           shall be responsible for developing and maintaining procedures that are consistent with this policy and that comply with applicable regulations, policies, and procedures of the institution, and the laws and regulations of the Commonwealth of Virginia.

*Administration and management efforts shall include advocating for the creation of OER to be recognized as a meaningful scholarly and professional endeavor.*

*Faculty, staff, and students using, adapting, and creating OER are responsible to follow institutional policy and recognized best practices regarding incorporating student created works into faculty or collaboratively authored OER or an OER course.<sup>2</sup>*

*Employees of the institution are responsible to follow relevant laws and policies regarding accessibility of learning materials for persons with disabilities. The institution will provide guidance and agreed upon levels of support to achieve accessibility requirements.<sup>3</sup>*

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<sup>2</sup> Mays, E. (Ed). (2017). A Guide to Making Open Textbooks with Students. The Rebus Community for Open Textbook Creation: Montreal. <https://press.rebus.community/makingopentextbookswithstudents>

<sup>3</sup> Some technical guidance within the context of open education is available through: Collidge, A., Doner, S., & Robertson, T., (2015) BCcampus Open Education Accessibility Toolkit. <https://opentextbc.ca/accessibilitytoolkit>

*As subject matter experts, faculty are responsible for creating, adapting, and selecting OER materials that align to course learning outcomes as required by*

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*For OER designated courses or OER-created content, faculty are to use only materials that are published under a Creative Commons License or exist in the Public Domain. Faculty are encouraged to employ the following OER Community standards in the adoption of OER: Retain, Reuse, Revise, Remix and Redistribute. It is the faculty member's responsibility to ensure that content incorporated into OER or OER courses is eligible for and meets the standards for a CC-BY license and is properly attributed. Faculty may consult with the institution's OER expert to determine eligibility and correctly note attributions.*

**Additional considerations:**

- Some courses or learning resources require use of content under Fair Use or with permission. It is recommended that content used under Fair Use not be incorporated into OER. However, if third party content is necessary, further guidance should be sought from the institution's Copyright Officer and/or Legal counsel. When content is used with permission, this permission should include release of the content under the same license as the course or learning resource.<sup>4</sup>
- Librarians should serve a central leadership, education, and training role for faculty, staff, or students wishing to use, create, or adapt OER or to incorporate OER into a course. Among the support provided by designated librarians are facilitating OER training, assisting faculty in the location, curation, and marking of OER content, and advising regarding public discoverability. Additional support should be provided by faculty leaders, instructional designers, pedagogy experts, and an OER advisory group representing a cross-section of institutional stakeholders.

**F. OER Training and Professional Development**

**Sample language:** *The institution designates librarians to provide training regarding finding OER; understanding intellectual property, copyright, and open licenses; adopting and adapting OER; and creating best practices for sharing and enabling discovery of OER. In order to design or teach an OER designated course the faculty or staff member must have successfully completed the OER training program. Faculty, staff, and students wishing to adapt, create and share OER through institutional channels are encouraged to take similar training. Cross institutional collaboration is encouraged.*

**G. OER Technical Format, Archiving, and Discovery**

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<sup>4</sup> Weeramuni, L. (2018). Sample permissions letter. MIT Open Courseware: Cambridge, MA. [https://drive.google.com/open?id=1hi\\_x0-LXzu2JiNIVOGAkxXQOUhs\\_6kPd](https://drive.google.com/open?id=1hi_x0-LXzu2JiNIVOGAkxXQOUhs_6kPd)

**Sample language:** *OER and OER courses shall be published in electronic format(s) that permit free, public and editable access to the content, course content, course materials, and any supplemental materials. OER and OER courses shall be publicly shared in a stable publicly accessible location and utilize naming and/or metadata conventions to enable discovery within and beyond Virginia. Cross institutional collaboration is encouraged in defining, establishing, and achieving best practices regarding technical formats, institutional data ownership, migration of content, enabling public access and reuse, archival standards, and enabling discovery.*

**Additional considerations:**

- Access to course assessments (e.g., testbanks) may be limited to instructors for academic integrity purposes.
- Requirements for electronic format(s) do not preclude creation of printed materials.

## H. OER Quality Assurance

**Sample language:** *As subject matter experts, faculty are responsible for creating, adapting, or selecting OER that aligns to the course learning outcomes as reflected on the official course outline.*

*Faculty who teach an OER course should document the effectiveness of the OER content in achieving learning outcomes in the same manner as learning outcomes are assessed for courses utilizing traditional materials. Data to be considered for collection may include student engagement with the OER content, appropriateness of content, and student performance on assessments.*

**Additional considerations:**

- The institution may wish to designate one or more central and non-exclusive locations for OER or OER Course content to aid OER assessment on a broader scale. A broader analysis may include cost, outcomes, usage, and faculty/student perceptions.<sup>5</sup>
- The institution might have courses that should be excluded from this requirement. Those should be listed in the policies.

## I. Low-Cost Commercially Published Materials (LCCPM) (Optional)

There is no universally accepted definition of “low-cost commercially published materials.” The perception of commercially published materials as “low-cost” depends on the prospective buyer and how they value that for which they are asked to pay.

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<sup>5</sup> <https://openedgroup.org/coup>

Selection, adoption, use, and evaluation of commercially published materials are typically handled by faculty or departmental committees. Educational materials of all types are rapidly changing with regard to their licensing, acquisition, access, and retention methods and standards. This optional section emphasizes the role of the institution in ensuring positive and preventing or reducing negative short and long-term effects for the institution, its employees, and its students

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Authors of this policy thank Amanda Coolidge and Daniel DeMarte for the OER Policy Development Tool, released under a Creative Commons Attribution 4.0 International License.